

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No: 5:17-CV-249-D

HEINEKEN BROUWERIJEN B.V.,)
HEINEKEN USA, INC., and)
CERVEZAS CUAUHEMOC)
MOCTEZUMA, S.A. DE C.V.,)

Plaintiffs,)

v.)

BRIGHT NEON SIGNS, LLC, a/k/a)
BRIGHT NEON SIGNS, INC., a/k/a)
BRIGHTNEONSIGNS.COM,)

Defendant.)

JUDGMENT

On October 19, 2017, plaintiffs Heineken Brouwerijen B.V., Heineken USA Inc., and Cervezas Cuauhtemoc Moctezuma, S.A. DE C.V. (“plaintiffs”) moved for a default judgment against Bright Neon Signs, LLC, a/k/a Bright Neon Signs, Inc., a/k/a Brightneonsigns.com (“defendant”) [D.E. 13]. The court has considered the record and makes the following findings of fact and conclusions of law.

On May 30, 2017, plaintiffs properly served defendant. See [D.E. 7]; Fed. R. Civ. P. 4(h). More than 21 days have passed since defendant was served, and defendant has not answered the complaint or otherwise appeared in the matter. Defendant is not an infant or incompetent, and is not in the military. On July 24, 2017, the clerk entered default [D.E. 10].

The court has reviewed plaintiffs’ complaint and attached exhibits [D.E. 1, 1-1 through 1-4], the motion for default judgment [D.E. 13], and the declaration of Katie Bukrinsky [D.E. 13-1] and attached exhibits [D.E. 13-2 through 13-9]. Plaintiffs own valid trademarks and design marks for

HEINEKEN and DOS EQUIS for beer and related goods. Defendant sold neon bar signs bearing copies of Plaintiffs' HEINEKEN and DOS EQUIS trademarks and design marks without plaintiffs' authorization. Defendant's distribution, promotion, and sale of neon signs with plaintiffs' trademarks and design marks created a likelihood that defendant's consumers would believe defendant's signs were licensed, or that plaintiffs approved them.

Plaintiffs repeatedly demanded that defendant cease its infringing activities, but defendant never responded to the communications. Thus, plaintiffs filed this lawsuit. Despite being served with the complaint and the motion for entry of default, defendant never appeared in this action. See [D.E. 7, 9].

Defendant's activities constitute trademark infringement and unfair competition in violation of the Lanham Act, 15 U.S.C. § 1114 and § 1125, and the North Carolina Unfair and Deceptive Trade Practices Act ("UDTPA"), N.C. Gen. Stat. § 75-1.1. The court holds that this is an "exceptional case" under 15 U.S.C. § 1117(a). Accordingly, plaintiffs' motion for default judgment is granted. See Fed. R. Civ. P. 55(b)(2).


In sum, plaintiffs' motion for default judgment [D.E. 13] is GRANTED. The court ORDERS that:

1. Defendant, its employees, owners, agents, officers, directors, attorneys, representatives, affiliates, subsidiaries, successors, assigns, and all those in active concert or participation with them or having knowledge of the causes of action, are permanently enjoined from using, displaying, or referencing plaintiffs' marks alone or in combination with any other word(s), term(s), designation(s), mark(s), and/or design(s), as well as all similar marks, in connection with any products or services, specifically including neon signs.
2. Those in privity with defendant and those with notice of the injunction, including any

online marketplace, social media websites, Internet search engines, web hosts, domain name registrars, and domain name registries that are provided with notice of the injunction, shall immediately cease facilitating access to any and all websites and accounts through which defendant engaged in infringing plaintiffs' marks.

3. Pursuant to 15 U.S.C. § 1117(a) and N.C. Gen. Stat. §75-16.1(1), plaintiffs are awarded attorney's fees and costs in an amount to be proven. Plaintiffs shall submit appropriate documentation supporting their request for fees and costs by December 20, 2017.

SO ORDERED. This 18 day of November 2017.



JAMES C. DEVER III
Chief United States District Judge